

that Federal agencies shall advise an individual upon request whether records maintained by the agency in a system of records pertain to the individual and shall grant the individual access to such records. The Act further provides that individuals may request amendments or corrections to records pertaining to them that are maintained by the agency, and that the agency shall either grant the requested amendments or set forth fully its reasons for refusing to do so.

(b) The Securities and Exchange Commission, pursuant to subsection (f) of the Privacy Act, adopts the following rules and procedures to implement the provisions of the Act summarized above, and other provisions of the Act. These rules and procedures are applicable to all requests for information, access or amendment to records pertaining to an individual that are contained in any system of records that is maintained by the Commission.

§ 200.302 Definitions.

The following definitions shall apply for purposes of this subpart:

(a) The terms *individual*, *maintain*, *record*, *system of records*, and *routine use* are defined for purposes of these rules as they are defined in 5 U.S.C. 552a(a)(2), (a)(3), (a)(4), (a)(5), and (a)(6).

(b) *Commission* means the Securities and Exchange Commission.

§ 200.303 Times, places and requirements for requests pertaining to individual records in a record system and for the identification of individuals making requests for access to the records pertaining to them.

(a) *Place to make request.* Any request by an individual to be advised whether any system of records maintained by the Commission and named by the individual contains a record pertaining to him or her, or any request by an individual for access to a record pertaining to him or her that is contained in a system of records maintained by the Commission, shall be submitted by mail to the Office of Freedom of Information and Privacy Act Operations, SEC, 100 F Street, NE., Washington, DC 20549, or by facsimile (202-772-9337). All requests will be required to be put in writing and signed by the individual making the request. In the case of re-

quests for access that are made by mail, the envelope should be clearly marked "Privacy Act Request."

(1) *Information to be included in requests.* Each request by an individual concerning whether the Commission maintains in a system of records a record that pertains to him, or for access to any record pertaining to the individual that is maintained by the Commission in a system of records, shall include such information as will assist the Commission in identifying those records as to which the individual is seeking information or access. Where practicable, the individual should identify the system of records that is the subject of his request by reference to the Commission's notices of systems of records, which are published in the FEDERAL REGISTER, as required by section (e)(4) of the Privacy Act, 5 U.S.C. 552a(e)(4). Where a system of records is compiled on the basis of a specific identification scheme, the individual should include in his request the identification number or other identifier assigned to him. In the event the individual does not know the specific identifier assigned to him, he shall provide other information, including his full name, address, date of birth and subject matter of the record, to aid in processing his request. If additional information is required before a request can be processed, the individual shall be so advised.

(2) *Verification of identity.* When the fact of the existence of a record is not required to be disclosed under the Freedom of Information Act, 5 U.S.C. 552, as amended, or when a record as to which access has been requested is not required to be disclosed under that Act, the individual seeking the information or requesting access to the record shall be required to verify his or her identity before access will be granted or information given. For this purpose, individuals shall appear at the Office of Freedom of Information and Privacy Act Operations, SEC, 100 F Street, NE., Washington, DC 20549, during normal business hours of 9 a.m. to 5:30 p.m. E.S.T., Monday through Friday, or at one of the Commission's Regional Offices. The addresses and business hours of those offices are listed below:

Atlanta Regional Office—3475 Lenox Road, NE., Suite 1000, Atlanta, GA 30326-1232. Office hours—9 a.m. to 5:30 p.m. E.T.

Boston Regional Office—33 Arch Street, 23rd Floor, Boston, MA 02110-1424. Office hours—9 a.m. to 5:30 p.m. E.T.

Chicago Regional Office—175 West Jackson Boulevard, Suite 900, Chicago, IL 60604-2908. Office hours—8:45 a.m. to 5:15 p.m. C.T.

Denver Regional Office—1801 California Street, Suite 1500, Denver, CO 80202-2656. Office hours—8 a.m. to 4:30 p.m. M.T.

Fort Worth Regional Office—Burnett Plaza, Suite 1900, 801 Cherry Street, Unit #18, Fort Worth, TX 76102-6882. Office hours—8:30 a.m. to 5 p.m. C.T.

Los Angeles Regional Office—5670 Wilshire Boulevard, 11th Floor, Los Angeles, CA 90036-3648. Office hours—8:30 a.m. to 5 p.m. P.T.

Miami Regional Office—801 Brickell Avenue, Suite 1800, Miami, FL 33131-4901. Office hours—9 a.m. to 5:30 p.m. E.T.

New York Regional Office—3 World Financial Center, Suite 400, New York, NY 10281-1022. Office hours—9 a.m. to 5:30 p.m. E.T.

Philadelphia Regional Office—701 Market Street, Suite 2000, Philadelphia, PA 19106-1532. Office hours—9 a.m. to 5:30 p.m. E.T.

Salt Lake City Regional Office—15 W. South Temple Street, Suite 1800, Salt Lake City, UT 84101-1573. Office hours—8 a.m. to 4:30 p.m. M.T.

San Francisco Regional Office—44 Montgomery Street, Suite 2600, San Francisco, CA 94104-4716. Office hours—8:30 a.m. to 5 p.m. P.T.

None of the Commission's offices is open on Saturday, Sunday or the following legal holidays: New Year's Day, Martin Luther King, Jr.'s Birthday, Presidents' Day, Memorial Day, Independence Day, Labor Day, Veterans' Day, Columbus Day, Thanksgiving Day, and Christmas Day.

(3) *Methods for verifying identity—appearance in person.* An individual seeking information as to records pertaining to him or access to those records shall furnish documentation that may reasonably be relied on to establish the individual's identity. Such documentation might include a valid birth certificate, driver's license, employee or military identification card, or medicare card.

(4) *Method for verifying identity by mail.* Where an individual cannot appear at one of the Commission's Offices to verify his or her identity, he or she must submit, along with the request for information or access, a statement attesting to his or her identity. Where access is being sought, the statement shall include a representation that the requested records pertain to the indi-

vidual and a statement that the individual is aware that knowingly and willfully requesting or obtaining records pertaining to an individual from the Commission under false pretenses is a criminal offense. This statement shall be a sworn statement, or in lieu of a sworn statement, an individual may submit an unsworn statement to the same effect if it is signed by him or her as true under penalty of perjury, dated, and in substantially the following form:

(i) If executed outside the United States: "I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct."

Executed on (date) _____
(Signature)

(ii) If executed within the United States, its territories, possessions, or commonwealths: "I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct."

Executed on (date) _____
(Signature)

(5) *Additional procedures for verifying identity.* When it appears appropriate, there may be made such other arrangements for the verification of identity as are reasonable under the circumstances and appear to be effective to prevent unauthorized disclosure of, or access to, individual records.

(b) *Acknowledgement of requests for information pertaining to individual records in a record system or for access to individual records.* (1) Except where an immediate acknowledgement is given for requests made in person, the receipt of a request for information pertaining to individual records in a record system will be acknowledged within 10 days after the receipt of such request. Requests will be processed as promptly as possible and a response to such requests will be given within 30 days (excluding Saturdays, Sundays, and legal holidays) unless, within the 30 day period and for cause shown, the individual making the request is notified in writing that a longer period is necessary.

(2) When an individual appears in person at the Office of Freedom of Information and Privacy Act Operations,

Securities and Exchange Commission

§ 200.304

SEC, 100 F Street, NE., Washington, DC 20549, or at one of its Regional Offices to request access to records pertaining to him, and such individual provides the required information and verification of identity, the Commission's staff, if practicable, will indicate at that time whether it is likely that the individual will be given access to the records and, if so, when and under what circumstances such access will be given. In the case of requests received by mail, whenever practicable, acknowledgement of the receipt of the request will be given within 10 days after receipt (excluding Saturdays, Sundays, and legal holidays). The acknowledgement will indicate, if practicable, whether or not access likely will be granted and, if so, when and under what circumstances.

[40 FR 44068, Sept. 24, 1975, as amended at 41 FR 44698, Oct. 12, 1976; 47 FR 26819, June 22, 1982; 52 FR 2677, Jan. 26, 1987; 54 FR 40862, Oct. 4, 1989; 54 FR 50307, Dec. 5, 1989; 59 FR 5945, Feb. 9, 1994; 59 FR 12543, Mar. 17, 1994; 65 FR 55185, 55186, Sept. 13, 2000; 73 FR 32225, June 5, 2008]

§ 200.304 Disclosure of requested records.

(a) *Initial review.* Requests by individuals for access to records pertaining to them will be referred to the Commission's Privacy Act Officer who initially will determine whether access will be granted, *Provided, however,* That a Director of a staff Division of the Commission or Office head, other than the General Counsel, whose zone of responsibility relates to the record requested (see 17 CFR 200.13 *et seq.*), may make a determination that access is not lawfully required to be granted and should not be granted, in which case he, and not the Privacy Act Officer, shall make the required notification to the individual making the request.

(b) *Grant of request for access.* (1) If it is determined that a request for access to records pertaining to an individual will be granted, the individual will be advised by mail that access will be given at the designated Office of the Commission or a copy of the requested record will be provided by mail if the individual shall so indicate. Where the individual requests that copies of the record be mailed to him or requests

copies of a record upon reviewing it at a Commission Office, the individual shall pay the cost of making the requested copies, as set forth in § 200.310 of this subpart.

(2) In granting access to an individual to a record pertaining to him, such steps shall be taken by the Commission's staff as are necessary to prevent the unauthorized disclosure at the same time of information pertaining to individuals other than the person making the request or of other information that does not pertain to the individual.

(c) *Denial of request for access.* If it is determined that access will not be granted, the individual making the request will be notified of that fact and given the reasons why access is being denied. The individual also will be advised (1) of his right to seek review by the General Counsel of the initial decision to deny access, in accordance with the procedures set forth in § 200.308 of this subpart; and (2) of his right ultimately to obtain judicial review pursuant to 5 U.S.C. 552a(g)(1)(A) of a final denial of access by the General Counsel.

(d) *Time for acting on requests for access.* Access to a record pertaining to an individual normally will be granted or denied within 30 days (excluding Saturdays, Sundays and legal holidays) after the receipt of the request for access unless the individual making the request is notified in writing within the 30 day period that, for good cause shown, a longer time is required. In such cases, the individual making the request shall be informed in writing of the difficulties encountered and an indication shall be given as to when it is anticipated that access may be granted or denied.

(e) *Authorization to allow designated person to review and discuss records pertaining to another individual.* An individual who is granted access to records pertaining to him, and who appears at a Commission Office to review the records, may be accompanied by another person of his choosing. Where the records as to which access has been granted are not required to be disclosed under provisions of the Freedom of Information Act 5 U.S.C. 552, as amended, the individual requesting the records,